

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

BUCK A. FRALY,

Plaintiff,

v.

Civil Case No. 21-12475  
Honorable Linda V. Parker

JOHN DOE,<sup>1</sup>

Defendant.

**OPINION AND ORDER VACATING ORDER TO SHOW CAUSE AND  
GRANTING PLAINTIFF'S MOTION**

Plaintiff is a Michigan Department of Corrections inmate, currently housed at the Macomb Correctional Facility. On October 7, 2021, Plaintiff filed this pro se action against a John Doe Traverse City police officer, “CPS Employees,” Michigan Attorney General Dana Nessel, and a John Doe nurse. (ECF No. 1.) The Honorable Stephanie Dawkins Davis, to whom this case was initially assigned, issued an opinion and order on April 21, 2022, dismissing without prejudice Plaintiff’s claims against all defendants but the John Doe nurse. (ECF No. 7.) In that opinion and order, Judge Davis also ordered Plaintiff “to provide the name and

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<sup>1</sup> Plaintiff initially named three additional defendants. They were summarily dismissed on April 21, 2022. (See ECF No. 7.)

address of this John Doe [nurse] defendant within thirty days from the date of th[e] order to allow for service of process.” (*Id.*)

On June 17, 2022, this matter was assigned to the undersigned pursuant to Administrative Order 22-AO-036. As of that date, Plaintiff had not complied with Judge Davis’ order and provided information needed to serve the John Doe nurse. Therefore, on June 22, this Court issued an order requiring Plaintiff to show cause as to why the action should not be dismissed for failure to serve within the 90-day window in Federal Rule of Civil Procedure 4(m). (ECF No. 8.) Plaintiff’s response to the show cause order was due on July 13.

On July 14, the Court received a motion from Plaintiff, which is signed and dated on June 30. (ECF No. 9.) Although Plaintiff’s handwriting is difficult to read, it appears that he is seeking permission to conduct discovery to identify the John Doe Defendant(s). It appears that Plaintiff’s claim(s) against the John Doe nurse arises from the alleged denial of proper medical care between December 2019 to 2021, while Plaintiff was incarcerated at MDOC’s Jackson State Prison. (*See, e.g.*, ECF No. 1 at Pg ID 5-8.)

The Court finds that Defendant’s motion demonstrates cause for his failure to serve the John Doe nurse within the parameters of Rule 4(m). The Court also finds that Plaintiff should be granted the opportunity to seek discovery to identify this John Doe defendant. It is incumbent on Plaintiff, however, to provide the third

party served with the discovery requests the necessary information to identify this defendant and to do so in a legible format. This includes, among other information: (i) the facility where Plaintiff encountered this individual; (ii) when the encounter(s) occurred; (iii) the relevant date(s); and (iv) a description of the individual.

Accordingly,

**IT IS ORDERED** that the June 22, 2022 show cause order (ECF No. 8) is **VACATED**.

**IT IS FURTHER ORDERED** that Plaintiff's motion (ECF No. 9) is **GRANTED**.

s/ Linda V. Parker  
LINDA V. PARKER  
U.S. DISTRICT JUDGE

Dated: November 2, 2022

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, November 2, 2022, by electronic and/or U.S. First Class mail.

s/Aaron Flanigan  
Case Manager